



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable Royall R. Watkins, Member
State Board of Education
1201 Main Street
Dallas, Texas

Dear Mr. Watkins:

Opinion No. 0-5740

Re: Transfer by contract of entire
scholastic enrollment, under Article
8, House Bill 284, 47th Legislature
-- effect on boundaries of receiving
district.

Your letter of recent date poses two questions for
the consideration of this Department. We take the liberty
of restating them, as follows:

1. When one school district transfers by contract,
under Article 8, House Bill 284, 47th Legislature, its en-
tire scholastic enrollment to another district, is the re-
ceiving district deemed to embrace the territory of the send-
ing district, for the purpose of determining whether it is
entitled to transportation aid, and the amount thereof, under
territorial provisions of Section 1, Article 5, of House Bill
284?

2. If the foregoing question is answered in the
affirmative, then, if by such transfer the receiving dis-
trict's territory is enlarged to 118.6 square miles, would
such district be rendered ineligible for State aid under
territorial provisions of Section 1, Article 1, House Bill
284?

Article 8, House Bill 284, provides:

"Section 1. For the school year 1941-42, upon
the agreement of the Board of Trustees of the dis-
tricts concerned or on petition signed by a major-
ity of the qualified voters of the district and sub-

ject to the approval of the County Superintendent, State Superintendent, and Joint Legislative Advisory Committee, the trustees of a district which may be unable to maintain a satisfactory school may transfer its entire scholastic enrollment, or any number of grades thereof, to a convenient school of higher rank, and in such event, all of the funds of the district, including the State Aid to which the district would otherwise be entitled under the provisions of this Act, or such proportionate part thereof as may be necessary shall be used in carrying out said agreement; provided that no aid shall be allowed for teachers that are not actually employed in the contracting schools.

"Sec. 2. For the school years thereafter, upon the agreement of the Board of Trustees of the districts concerned or on petition signed by a majority of the qualified voters of the district and subject to the approval of the county superintendent, and the State Superintendent, a district which may be unable to maintain a satisfactory school may transfer its entire scholastic enrollment for one year to an accredited school of higher rank. If the receiving school receives State Aid, the scholastic census rolls both white and colored shall be combined, the per capita apportionment shall be paid direct to the receiving school, all local taxes of the sending contracting district, except those going to the interest and sinking fund shall be credited to the receiving school by the Tax Collector as collected, and the teacher-pupil quota shall be based on the combined census total. If the receiving school is not a State Aid school, the scholastic census rolls both white and colored shall be combined, the per capita apportionment shall be paid direct to the receiving school, all local taxes of the sending contracting district except those going to the interest and sinking fund shall be credited to the receiv-

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ing school by the Tax Collector as collected, and the sending contracting district will be eligible for as much Salary Aid as is necessary to supplement the State Available and Local Maintenance Funds, on the scholastics from the sending district attending a school in the receiving district, to cover the approved cost of instruction per scholastic in the receiving school, provided that such approved cost shall not exceed Seven Dollars and Fifty Cents (\$7.50) per month for high school students or Five Dollars (\$5.00) per month for elementary students."

Neither Section of such Article of the Act purports in anywise to authorize a consolidation of the two districts. The Article does not speak in terms of merging the territory of the sending district with that of the receiving district, but provides for a transfer of the scholastic enrollment.

"... the article . . . merely deals with the transfer of school children and school funds from one district to another. . . and not in any way affecting or providing for consolidation of districts." Drake v. Yawn, 248 S. W. 726, 732, writ of error refused.

The territory of the sending district, therefore, is not to be regarded as part of the territory of the receiving district for the purpose of applying the proviso in Section 1, Article 5, of the Act, allowing transportation aid of \$2.00 per pupil to school districts containing 100 square miles of territory or more.

This negative answer to your first question renders unnecessary a consideration of your second inquiry.

Very truly yours

ATTORNEY GENERAL OF TEXAS

BY

R. W. Fairchild
R. W. Fairchild
Assistant

APPROVED DEC 20 1943

Royall R. Watkins
FIRST ASSISTANT
ATTORNEY GENERAL
RWF-MR

